

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA)	
)	
v.)	No. 3:05-CR-113
)	(Phillips/Shirley)
JOHNNY HATCHER)	

ORDER

On April 4, 2006, Magistrate Judge C. Clifford Shirley filed a 31-page Report and Recommendation [Doc. 167] as to defendant Donald R. Harmon's Motion to Suppress Seized Evidence and Brief [Doc. 43] and defendant Johnny E. Hatcher's Motion to Suppress Evidence Obtained From the Search of 4323 Horace Taylor Road [Doc. 69].¹ After review of the motions, memorandums, responses, and supplement materials, Magistrate Judge Shirley recommended that the motions be granted in part to the extent any drug proceeds, in the form of U.S. currency, or other unspecified "expensive personal property," were seized under clause 1 or 2 of the search warrants. In all other respects, however, Magistrate Judge Shirley recommended that the defendants' motions be denied.

On April 12, 2006, defendant Harmon filed an Appeal and Objections to the District Court from the Order of the Magistrate Judge entered on March 29, 2006, Docs. 165 and

¹The Court permitted defendant Hatcher to join in defendant Harmon's Motion to Suppress Seized Evidence and Brief [Doc. 43] in its Memorandum and Order [Doc. 165].

167, and Request for F.R.Cr.P. 17.1 Scheduling Conference and Enlargement of Time [Doc. 168]. Thereafter, defendant Hatcher filed a motion to adopt and incorporate motion of co-defendant [Doc. 169], as well as his own Appeal and Objections to the District Court from the Order of the Magistrate Judge entered March 29, 2006, Docs. 165 and 167, and Request for Scheduling Conference and Enlargement of Time [Doc. 170]. In their motions, the defendants generally object to the Magistrate Judge's findings and request that the Court conduct a F.R.Cr. P. 17.1 conference to discuss the procedures that may facilitate the Court's F.R.Cr.P. 59/28 U.S.C. § 636(b) consideration of appeals and objections and to establish a new scheduling order for the defense to file motions that may pertain to new discovery. Due to the complexity of the new discovery received on relatively short notice by the defendants, the Court allowed the parties time to identify the document numbers the Court should consider regarding the appeal and also to identify specific issue(s) and/or motion(s) that are subject to the appeal.

On December 4, 2006, defendant Hatcher filed Objections to the Magistrate Judge's Memorandum and Order [Doc. 196]. The pleading only references objections to the Memorandum and Order [Doc. 165], filed on March 29, 2006. No objections or arguments were submitted to the Court for consideration with respect to the Magistrate Judge's Report and Recommendation [Doc. 167] filed April 4, 2006, and enough time has passed since the filing of the Report and Recommendation to treat any objections as having been waived. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

After a careful review of this matter, the Court is in complete agreement with

Magistrate Judge Shirley's recommendation. The Court readily concludes that Magistrate Judge Shirley has thoroughly and correctly analyzed the legal issues presented in defendants' motions to suppress. Thus, any further comment by the Court is unnecessary and would be repetitive.

Accordingly, the **R&R is ACCEPTED IN WHOLE**. Thus, defendant Johnny E. Hatcher's Motion to Suppress Seized Evidence and Brief [Doc. 43] and defendant Donald R. Harmon's Motion to Suppress Evidence Obtained From the Search of 4323 Horace Taylor Road [Doc. 69] are hereby **GRANTED in part** and **DENIED in part**.

ENTER:

s/Thomas W. Phillips
UNITED STATES DISTRICT JUDGE